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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,740

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Walter Vazquez

9719

60333

7590

07/21/2009

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EXAMINER

ELLIS, RYAN H

ART UNIT

PAPER NUMBER

3745

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/598,740	<b>Applicant(s)</b> VAZQUEZ, WALTER	
	<b>Examiner</b> RYAN H. ELLIS	<b>Art Unit</b> 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/3/2006</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “step devices” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: “70”. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or

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amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention without undue experimentation. The "step devices" claimed in claim 10 are non enabling because they are not shown in any drawing and the specification does not make clear what these devices look like or how they are integrated into the device.

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***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 1,868,017 to McGinty in view of US Patent No. 1,255,663 to Swanson.

In Reference to Claim 6

McGinty teaches:

A turbine, comprising: a housing (7) containing a rotatable concentric inner member (rotor 22) with a central shaft (14) and a plurality of blades (33) extending between an exterior face of a peripheral wall (rim 28) of said rotatable concentric inner member and an inner face of a peripheral wall of said housing with a space existing between said peripheral wall of said rotatable concentric inner member and said peripheral wall of said housing defining a channel into which fluid is passable, so that the fluid is able to be directed through at least one inlet (42) of said peripheral wall of said housing for acting on a blade and fills the space between adjacent blades of said plurality of blades for causing said rotatable concentric inner member to rotate, the fluid exiting said turbine through an outlet (Figure 2) in said peripheral wall of said housing (page 2, ll. 85-109).

McGinty fails to teach:

Substantially axially oriented blades.

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Swanson teaches:

Substantially axially oriented blades (17). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the blades of McGinty with the axially oriented blades of Swanson for the purpose of ease of manufacturing.

7. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 1,868,017 to McGinty in view of US Patent No. 1,255,663 to Swanson and in further view of US Patent No. 4,302,147 to Cherubim.

In Reference to Claim 7

McGinty as modified by Swanson teaches:

The turbine according to Claim 6 (see rejection of claim 6 above).

McGinty fails to teach:

Wherein said peripheral wall of said housing has a plurality of inlets.

Cherubim teaches

Wherein said peripheral wall of said housing has a plurality of inlets (36). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the inlets of McGinty with the plurality of inlets of Cherubim for the purpose being able to use a greater volume of water to operate the machine.

In Reference to Claim 8

McGinty as modified by Swanson and Cherubim teaches:

The turbine according to Claim 7 (see rejection of claim 7 above), wherein said plurality of inlets (36 of Cherubim) in said peripheral wall of said housing pass diagonally through said peripheral wall for directing the fluid to said plurality of substantially axially oriented blades (Figure 2 of Cherubim).

In Reference to Claim 9

McGinty as modified by Swanson and Cherubim teaches:

The turbine according to Claim 6 (see rejection of claim 6 above), wherein said plurality of substantially axially oriented blades (33) are dimensioned so that fluid is unable to pass around said blades with a volume defined by said adjacent blades forming an individual compartment (Figures 2 and 3 of McGinty). McGinty teaches that the compartments are closed off due to the blades reaching the outer walls as shown in the Figures.

***Conclusion***

8. Although no art rejection has been applied to claim 10, patentability is reserved pending Applicant's response to the rejections under 35 USC 112.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent No. 5,755,553 to Laemthongsawad discloses a water turbine with compartments. US Patent No. 5,245,822 to Laguinia discloses a water turbine with compartments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN H. ELLIS whose telephone number is (571)270-7414. The examiner can normally be reached on Monday-Friday; 7:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ED LOOK can be reached on (571)272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RYAN H. ELLIS/  
Examiner, Art Unit 3745

/Edward K. Look/  
Supervisory Patent Examiner, Art Unit 3745